

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

UNITED STATES OF AMERICA,

Plaintiff,

and

SIERRA CLUB,

Intervenor-Plaintiff,

v.

DTE ENERGY COMPANY AND  
DETROIT EDISON COMPANY,

Defendants.

Civil Action No.  
2:10-cv-13101-BAF-RSW

Judge Bernard A. Friedman

Magistrate Judge R. Steven  
Whalen

**DEFENDANTS' CONSENT MOTION FOR  
EXTENSION OF TIME TO ANSWER INTERVENOR-  
PLAINTIFF SIERRA CLUB'S FIRST  
AMENDED COMPLAINT**

Pursuant to Fed. R. Civ. P. 6(b)(1)(A) and Local Rule 7.1, Defendants DTE Energy Company and Detroit Edison Company (collectively, DTE), respectfully move for an extension of time to respond to Intervenor-Plaintiff Sierra Club's First Amended Complaint.

1. On May 22, 2014, the Sierra Club filed its First Amended Complaint, a copy of which was served electronically on DTE. DTE agreed to accept service of the First Amended Complaint as of May 22, 2014 and calculates its deadline to respond to the First Amended Complaint to be June 9, 2014.

2. On April 2, 2014, the United States filed a motion for time to move for partial final judgment under Federal Rule of Civil Procedure 54(b) (ECF No. 200) with respect to this Court's order granting DTE's motion for summary judgment (ECF No. 196). That same date, Intervenor-Plaintiff Sierra Club moved for entry of partial final judgment under Rule 54(b), but asked that its motion be considered at the same time as any motion the United States might elect to file. DTE did not oppose either motion. On May 13, 2014, the Court granted the United States' motion and set June 30, 2014 as the deadline for the United States to move for partial final judgment under Fed. R. Civ. P. 54(b) (ECF No. 213). The Court also stayed consideration of Sierra Club's motion for certification of partial final judgment (*id.*).

3. On April 9, 2014, the United States filed its First Amended Complaint. In the event that partial final judgment be entered followed by an appeal, it is DTE's position that further proceedings in this case should be stayed pending such appeal. DTE therefore filed a consent motion to extend the deadline for DTE's response to the United States' First Amended Complaint to fourteen days after either (a) the Court rules on any motion by the United States for partial final judgment under Rule 54(b), or (b) the United States notifies the Court and DTE that it does not intend to file a motion under Rule 54(b). The Court granted DTE's consent motion to extend during the telephonic status conference held on May 13, 2014 (Minute Entry, May 14, 2014).

4. DTE now moves for a similar extension of the time for DTE's response to the Sierra Club's First Amended Complaint, to fourteen days after either (a) the Court rules on any motion by the United States for partial final judgment under Rule 54(b),

or (b) the United States notifies the Court and DTE that it does not intend to file a motion under Rule 54(b).

5. Counsel for the United States and Sierra Club indicated their consent to this motion.

Respectfully submitted this 27<sup>th</sup> day of May, 2014.

Matthew J. Lund (P48632)  
Suite 1800  
4000 Town Center  
Southfield, Michigan 48075-1505  
lundm@pepperlaw.com  
(248) 359-7300

Michael J. Solo (P57092)  
Office of the General Counsel  
DTE Energy, One Energy Plaza  
Detroit, Michigan 48226  
solom@dteenergy.com  
(313) 235-9512

By: /s/ F. William Brownell

F. William Brownell  
Mark B. Bierbower  
Makram B. Jaber  
Hunton & Williams LLP  
2200 Pennsylvania Ave., N.W.  
Washington, D.C. 20037  
bbrownell@hunton.com  
mbierbower@hunton.com  
mjaber@hunton.com  
(202) 955-1500

Brent A. Rosser  
Hunton & Williams LLP  
Bank of America Plaza, Suite 3500  
101 South Tryon Street  
Charlotte, North Carolina 28280  
brosser@hunton.com  
(704) 378-4700

Harry M. Johnson, III  
George P. Sibley, III  
Hunton & Williams LLP  
951 E. Byrd Street  
Richmond, Virginia 23219  
pjohnson@hunton.com  
gsibley@hunton.com  
(804) 788-8200

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on May 27, 2014, the foregoing **DEFENDANTS' CONSENT MOTION FOR EXTENSION OF TIME TO ANSWER INTERVENOR-PLAINTIFF SIERRA CLUB'S FIRST AMENDED COMPLAINT** was served electronically only on counsel of record through the Court's CM/ECF system.

/s/ George P. Sibley, III